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International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

# Consideration of reports submitted by States parties under article 9 of the Convention

## Fourth to sixth periodic reports of States parties due in 2014

## Paraguay*

[Date received: 20 October 2015]

* The present document is being issued without formal editing.

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** Annexes may be consulted in the files of the secretariat.

# I. General information

## A. Method of preparation of the report

1. This report was prepared by the National Institute of Indigenous Affairs, in coordination with the Human Rights Unit of the Ministry of Foreign Affairs and the Directorate-General of Human Rights of the Ministry of Justice, based on the guidelines on the form and content of reports to be submitted by States parties.[1]

2. The information contained in the document was provided by various State entities with responsibilities in the field, in the course of inter-agency meetings convened for that purpose.

3. The consultation process was undertaken within the Executive Branch Human Rights Network, which also included representatives of the Public Prosecution Service, the judiciary and the legislature.

4. Information on the follow-up to the Committee's concluding observations was obtained using the Recommendations Monitoring System, a computerized tool coordinated by the Ministry of Foreign Affairs and the Ministry of Justice, which was designed with the technical assistance of the Office of the United Nations High Commissioner for Human Rights (OHCHR).[2]

5. The Recommendations Monitoring System is composed of seven population working groups that collect information on the following subjects: Institution building/LGBTI; people living in poverty; children and adolescents; women; indigenous peoples/persons of African descent/migrants; persons deprived of liberty, and older persons/persons with disabilities. These working groups are composed of focal points designated by the national authorities.

6. The report was disseminated among civil society organizations and organizations of indigenous peoples and persons of African descent for the purpose of gathering useful comments and observations.

## B. Indigenous peoples — 2012 census data

7. The third National Population and Housing Census of indigenous peoples of 2012 was undertaken as part of the National Population and Housing Census conducted by the Directorate-General of Statistics, Surveys and Censuses of the Technical Planning Secretariat for Economic and Social Development. The objective was to obtain timely, up-to-date and reliable data on indigenous peoples, including information on their numbers, composition, socioeconomic and demographic aspects and geographical location, along with indicators regarding their collective rights.

8. According to the data collected during this process, there are currently 117,150 indigenous persons, representing 1.8 per cent of the national population.[3] The indigenous

[1] HRI/GEN/2/Rev.6, chap. I.

[2] Available at the following sites: www.mre.gov.py and www.hchr.org.py.

[3] "The total population of 117,150 indigenous persons was derived from the total of persons surveyed as part of the special operation conducted with indigenous peoples (113,254) and the persons detected by the National Census for non-indigenous peoples via the question on ethnic origin (3,896). However, the results obtained during the survey of indigenous peoples will be used for the

population has maintained its upward growth trend, albeit at a slower pace (2.7 per cent per year).

9. The majority of the indigenous population lives in the Eastern region (52 per cent). As regards the distribution by department, 66.7 per cent of indigenous persons live in the departments of Presidente Hayes, Boquerón, Canindeyú and Amambay.

Table 1

**Paraguay. Distribution of total indigenous population, disaggregated by urban/rural area and by department, 2012**

| *Department* | *Population* | | *Area* | | | |
|---|---|---|---|---|---|---|
| | *Total* | *%* | *Urban* | *%* | *Rural* | *%* |
| **Total** | **113 254** | **100.0** | **9 858** | **8.7** | **103 396** | **91.3** |
| Presidente Hayes | 25 573 | 22.6 | 111 | 0.4 | 25 462 | 99.6 |
| Boquerón | 24 454 | 21.6 | 5 891 | 24.1 | 18 563 | 75.9 |
| Canindeyú | 13 662 | 12.1 | 266 | 1.9 | 13 396 | 98.1 |
| Amambay | 11 852 | 10.5 | - | - | 11 852 | 100.0 |
| Caaguazú | 9 367 | 8.3 | - | - | 9 367 | 100.0 |
| Alto Paraná | 6 859 | 6.1 | 613 | 8.9 | 6 246 | 91.1 |
| Alto Paraguay | 4 134 | 3.7 | 277 | 6.7 | 3 857 | 93.3 |
| Concepción | 3 998 | 3.5 | 381 | 9.5 | 3 617 | 90.5 |
| San Pedro | 3 703 | 3.3 | - | - | 3 703 | 100.0 |
| Caazapá | 3 694 | 3.3 | - | - | 3 694 | 100.0 |
| Itapúa | 2 266 | 2.0 | - | - | 2 266 | 100.0 |
| Central | 2 012 | 1.8 | 1 860 | 92.4 | 152 | 7.6 |
| Guairá | 1 221 | 1.1 | - | - | 1 221 | 100.0 |
| Asunción | 459 | 0.4 | 459 | 100.0 | - | - |

*Source*: Directorate-General for Statistics, Surveys and Censuses (DGEEC). Third National Population and Housing Census of Indigenous Peoples, 2012.

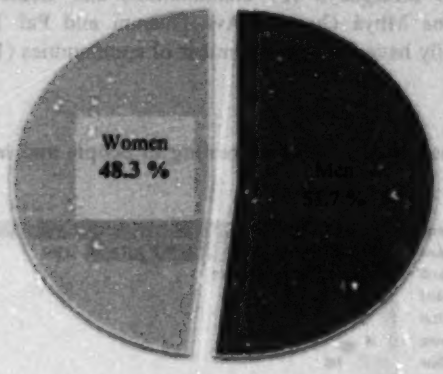
### Structure of the indigenous population

10. The structure of the indigenous population disaggregated by sex and five-year age groups shows a slight male predominance, at 51.7 per cent compared to 48.3 per cent for women.

preparation of assessments and presentation of tables as the National Census is still underway". (*Source*: DGECC.

Graph 1

**Paraguay. Distribution of indigenous population by sex, 2012**

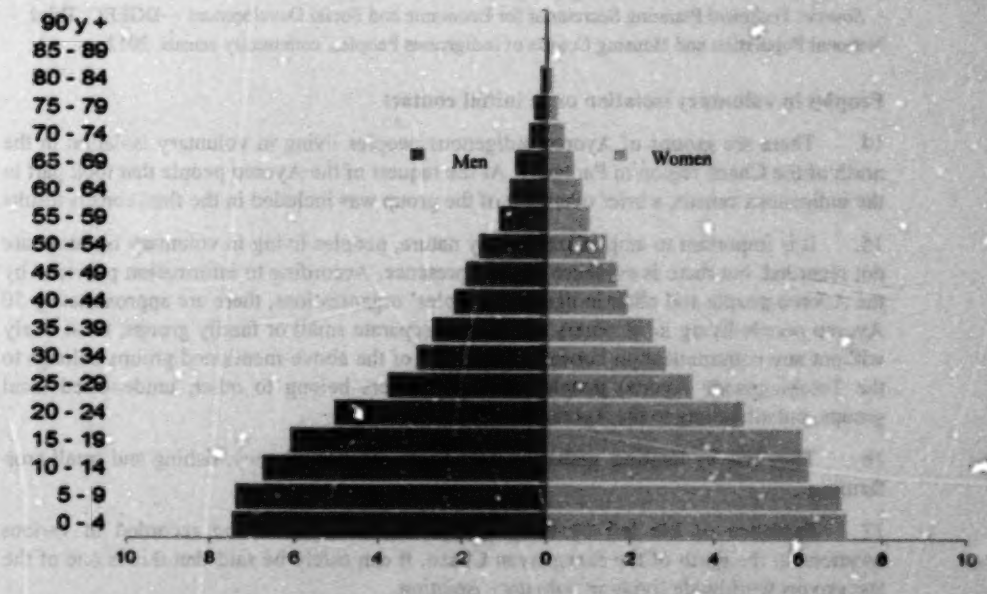



*Source*: DGEEC. Third National Population and Housing Census of Indigenous Peoples, 2012

11. In the population pyramid, there has been a reduction in the number of children aged 0 to 4 years compared to the 2002 census data. This indicates a decline in the level of fertility over recent years. In the other age groups, for both men and women, the percentage declines in the upper age-groups.

Graph 2

**Paraguay. Structure of the indigenous population by age and sex, 2012**




*Source*: DGEEC. Third National Population and Housing Census of Indigenous Peoples, 2012.

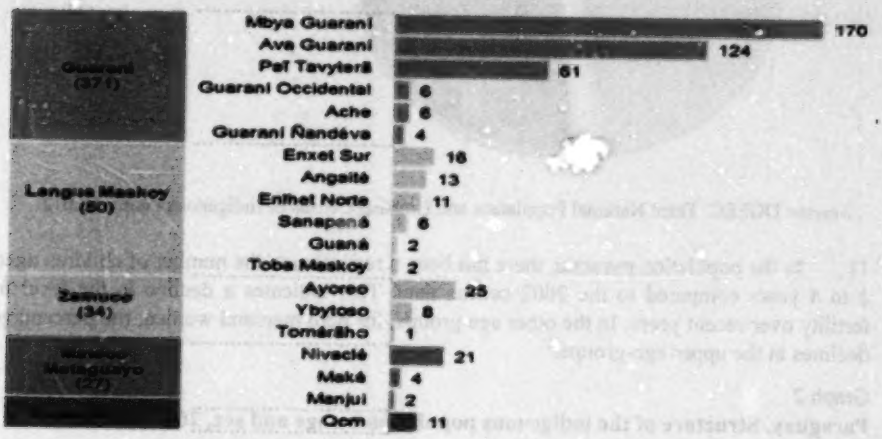
**Indigenous communities**

12. According to community census data, there are 493 communities and 218 villages or neighbourhoods, amounting to 711 communities, villages and neighbourhoods altogether. These communities are made up of 19 indigenous peoples from five linguistic families.

13. As regards linguistic family, most communities belong to the Guaraní family, made up of 371 communities. This is followed in size by the Lengua Maskoy (50 communities), Zamuco (34 communities), Mataco Mataguayo (27 communities) and Guaicurú (11 communities) language families. The Mbyá Guaraní, Avá Guaraní and Paĩ Tavyterã peoples of the Guaraní language family have the largest number of communities (170, 124 and 61 respectively).

Graph 3

**Paraguay. Distribution of indigenous communities according to people and language family, 2012**




*Source*: Technical Planning Secretariat for Economic and Social Development —DGEEC. Third National Population and Housing Census of Indigenous Peoples, community census, 2012.

**Peoples in voluntary isolation or in initial contact**

14. There are groups of Ayoreo indigenous peoples living in voluntary isolation in the north of the Chaco region in Paraguay. At the request of the Ayoreo people that took part in the indigenous census, a brief overview of the group was included in the final census results.

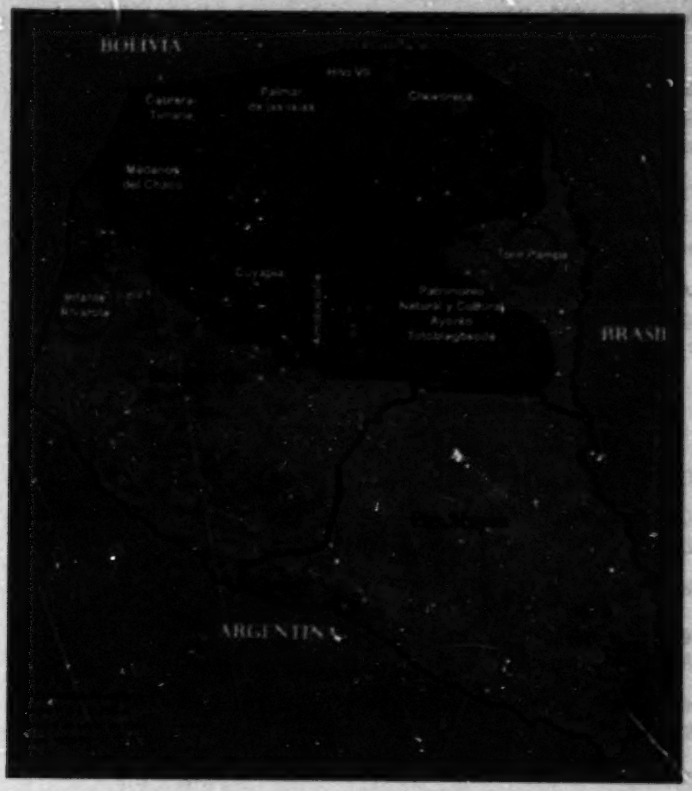
15. It is important to emphasize that, by nature, peoples living in voluntary isolation are not recorded, but there is evidence of their presence. According to information provided by the Ayoreo people and other indigenous peoples' organizations, there are approximately 50 Ayoreo people living in voluntary isolation in separate small or family groups, most likely without any communication between them. One of the above-mentioned groups belongs to the Totobiegosode Ayoreo people, while the others belong to other, unidentified local groups, but all belong to the Ayoreo people.

16. They live by hunting, gathering wild fruits, roots and honey, fishing and small crop farming.

17. Evidence of life left by these groups has been noted and recorded in various locations in the north of the Paraguayan Chaco. It can safely be said that this is one of the last groups worldwide living in voluntary isolation.

Map 1

**Areas in the north of the Paraguayan Chaco where isolated Ayoreo groups are present**




*Source*: Amocotodie Initiative.

# II. Information relating to each substantive article of the Convention

## A. Article 1

18. While "racial discrimination" is not recognized or prohibited as such in domestic legislation, chapter III of the Constitution provides for the equality of persons, expressly stating that discrimination is not permitted and that the State shall remove all obstacles and factors that support or encourage discrimination. It adds that "safeguards aimed at preventing unfair inequalities shall be regarded not as discriminatory, but as egalitarian".

19. Chapter VIII of the Constitution on employment also prohibits discrimination on the grounds of ethnic origin, sex, age, religion, social status, or political or trade union preferences.

## B. Article 2

20. Following a process of inclusion, acceptance and non-discrimination, when the Constitution was adopted in 1992, Paraguay came to be recognized as a bilingual and multicultural State.

21. The principle of positive discrimination is set forth under Chapter V of the Constitution "on indigenous peoples", with a view to achieving equality and respecting the culture, world view and customs of indigenous peoples.

22. Discriminatory provisions in educational content are prohibited under Chapter VII "on education and culture". Lessons are conducted in the mother tongue of the indigenous peoples as well as one of the official languages (Spanish or Guaraní).

23. Chapter X "on political rights and duties" recognizes that indigenous people are citizens and are eligible to vote and stand for election. In addition, migrants holding residence permits are eligible to vote in municipal elections.

### Legal framework

24. Paraguay has adopted a wide range of United Nations international human rights legislation, including the:

- International Convention on the Elimination of All Forms of Racial Discrimination (Act No. 2182/03);
- Geneva Conventions;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Act No. 69/90);
- Convention on the Rights of the Child and the Optional Protocols thereto (Act No. 57/90, 05/09/90);
- Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto (Act No. 215/86);
- Convention relating to the Status of Refugees and its Protocol relating to the Status of Refugees (Act No. 136/69);
- International Covenant on Civil and Political Rights (Act No. 5/92) and the Optional Protocols thereto;
- International Covenant on Economic, Social and Cultural Rights (Act No. 4/92);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Act No. 3452/08);
- Convention on Biological Diversity (Act No. 253/93);
- Rome Statute of the International Criminal Court (Act No. 1663/01);
- International Labour Organization (ILO) Equal Remuneration Convention, 1951 (No. 100) (Act No. 925/64);
- ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (Act No. 1154/66);
- ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (Act No. 36/90);
- ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) (Act No. 234/93);

- Convention on the Prevention and Punishment of the Crime of Genocide (Act No. 17487/2001);
- Convention for the Safeguarding of the Intangible Cultural Heritage (Act No. 2884/06);
- Universal Declaration of Linguistic Rights (World Conference on Linguistic Rights. Barcelona, 1996);
- Adoption of the final document of the World Conference on Indigenous Peoples (Fifty-ninth United Nations General Assembly, September 2014).

**Special and institutional laws**

- Act No. 904/81: The Statute of Indigenous Communities. Creation of the National Institute of Indigenous Affairs as an autonomous and independent body, subsequently amended by Act No. 919/96 and Act No. 2199/03;
- Act No. 3231/07 creating the Directorate-General for Indigenous Schooling;
- Act No. 352/93 on protected forest areas;
- Act No. 426/94 on departmental governments, establishing their mandate for action in favour of indigenous peoples in departmental jurisdictions;
- Act No. 1863/2002 establishing the Agrarian Statute and creating the Institute of Agrarian and Land Reform;
- Act No. 3232/07 on credit assistance for indigenous communities, provided through Crédito Agrícola de Habilitación;
- Act No. 3733/09 attributing 1 per cent of higher education scholarships to the indigenous population;
- Act No. 1160: The Code of Criminal Procedure, title II: Actions arising from unlawful acts, article 26; title VI: Procedure for unlawful acts related to indigenous peoples, articles 432 to 438;
- Act No. 43/89 of 21 December 1989 amending Act No. 1372/88 establishing a regime for the regulation of indigenous community settlements;
- Act No. 4251/2011 on languages; article 2 on multiculturalism. The Paraguayan State shall safeguard the country's multicultural and bilingual character, ensuring the promotion and development of the two official languages and the preservation and promotion of indigenous languages and cultures. The State shall support efforts to ensure the use of these languages in all its social functions and ensure respect for the other languages used by the various cultural communities in the country;
- Act No. 5347/14 on establishing free access for applicants of indigenous origin to approved grade 3 positions in both public and private universities, according to which universities must set aside a minimum of 3 per cent of direct access approved positions in all university programmes and disciplines forming part of the educational opportunities of the different universities;
- Act No. 3051/06 on national culture, which in Article 1 (a) establishes the adoption of a democratic model of cultural management aimed at the decentralization of institutions and developed in a spirit of tolerance, recognition of cultural diversity and respect for the cultural rights of minorities;
- Act No. 4423/11 on the organization of the Ministry of Defence.

## C. Article 3

25. Affirmative actions against discrimination:

- Creation of the Department for Action against Discrimination of the Ombudsman's Office by Presidential Decree No. 800 of 18 August 2006;
- Creation of the Supreme Court of Justice Directorate of Language Policies on 18 September 2012;
- Establishment of the Standing Advisory Committee on Indigenous Peoples in the Senate by Resolution No. 263/2014;
- Ongoing large-scale registration of members of indigenous communities — in accordance with existing needs — through a joint collaboration between the National Institute of Indigenous Affairs, the National Civil Registration Directorate and the National Police Identification Department;
- Issuing of ethnic identity cards by the PVC Department of the National Institute of Indigenous Affairs' National Indigenous Documentation Registry;
- Public Prosecution Service Directive on joint action, pursuant to Attorney-General's Office Resolution No. 13 of 25 November 2013 establishing guidelines for the Ethnic Rights Directorate, the Criminal Complaints Office, public prosecutors and prosecution unit officials on handling open cases involving members of indigenous peoples;
- Public Service Secretariat Resolution No. 942/09 establishing the basic framework for non-discrimination and inclusion policies within the public service;
- Decree No. 7839/2011 adopting the public service's first equality and non-discrimination plan, which aims under specific objective 4 to promote social equality for access to and opportunities in the public service. This decree is currently being reviewed and updated. It includes targets for the inclusion of indigenous persons in the public service, taking their culture into account;
- Under the Languages Act No. 4251/2010, the Public Service Secretariat has been running Guaraní language courses for public servants;
- Working groups and inter-agency coordination for the construction of indigenous job training programmes, led by the National Training and Work Skills Development System of the Ministry of Labour and Social Security;
- Working groups and inter-agency coordination on food security and nutrition for indigenous peoples, led by the Directorate for Agrarian Extension of the Ministry of Agriculture and Livestock and the Food and Agriculture Organization of the United Nations (FAO), including the signing a letter of intent;
- Inter-agency cooperation has been conducted in coordination with the National Institute of Indigenous Affairs and a cooperation agreement for joint action has been signed with the Pro Comunidades Indígenas organization and the Interchurch Organisation for Development Cooperation, with a view to organizing training sessions aimed at public officials working with indigenous peoples and establishing and implementing public policies that are respectful of indigenous culture;
- Ombudsman's Office Resolution No. 939/05 establishing the Department of Indigenous Peoples;
- Establishment of the Framework Agreement for Inter-Agency Cooperation between the Ombudsman's Office and the Language Policy Secretariat pursuant to Act No.

4251/10 with the aim of ensuring compliance with the Act through the official use of the Guaraní language in the three branches of government and all public institutions;

- National Human Rights Plan — Objective: tackling inequalities in the State;
- Protocol for supporting indigenous communities of the Secretariat for Social Action, adopted in 2014, which provides for prior consultation and free consent;
- Inclusion of indigenous peoples in the Tekoporã programme;
- Guaná Language Rescue Project conducted through joint efforts between the Language Policy Secretariat and the National Secretariat for Culture;
- Elaboration by the Public Prosecution Service of a joint action programme in the event of sightings of indigenous peoples in voluntary isolation, which included the holding of consultations at the drafting stage with State institutions responsible for intervening and with contributions from civil society. The reference document is currently before various institutions for final adoption.

26. Indigenous communities are exempt from paying the following taxes:

- Customs duties, levies and surcharges;
- Stamp duties;
- Domestic sales and consumption taxes;
- Property tax and other levies on real estate;
- Income tax;
- Exchange rate surcharges;
- Advance import deposits;
- Vehicle and business registration taxes;
- Gifts and legacies in favour of indigenous communities;
- Asset transfer taxes.

27. Indigenous communities are also exempt from paying the following fees:

- Land fees;
- Ethnic identity card issuance fees;
- National identity document issuance fees;
- Birth registration fees.

## D. Article 4

28. A draft national human rights plan was adopted in 2011. The plan was developed by the Human Rights Network under the guidance of the Ministry of Justice, working in conjunction with the other branches of government, civil society organizations and universities and with technical support from the Office of the United Nations High Commissioner for Human Rights. Following subsequent amendments and updates, the proposal served as the basis for the First National Human Rights Plan for the Republic of Paraguay, which entered into force in 2013 pursuant to a presidential decree.

29. Under the Plan, the State considers that a key feature of the concept of discrimination is that it draws "a distinction based on prejudice and manifestly contrary to human dignity, whereby members of a group are treated as different, and possibly inferior,

beings, the rationale for that distinction being odious and unacceptable given the humiliation caused to those who are thereby marginalized". In its most serious form (when it results in constant and prolonged exclusion), discrimination may become structural in nature and give rise to "a situation whereby certain sectors of the population, because of complex social, cultural or institutional practices, do not enjoy their rights to the same extent as the rest of society. It affects certain groups that have been marginalized historically in terms of, among other things, access to justice, education, political participation and the conduct of public affairs."

**Prohibition on discriminatory advertisements and publications**

30. The Advertising Self-Regulation Code drawn up by the National Centre for Communications Regulation, Standards and Research, the body which regulates advertising, establishes rules for preventing discrimination and ridicule.

31. The Criminal Code expressly prohibits discrimination, stipulating, in article 233, that: "Anyone who, in a manner likely to impede the harmonious coexistence of peoples, insults another person on account of his or her beliefs either in public, at a meeting or in publications referred to in article 14, shall be sentenced to a term of imprisonment of not more than 3 years or to payment of a fine."

32. Article 14 of the Criminal Code clarifies that "publications", as referred to in the relevant provisions, shall be understood as written publications, audio and video recordings, reproductions and any other recording media.

33. This provision safeguards indigenous peoples, persons of African descent and migrants against the actions of any person who subjects their culture and practices to discrimination, ridicule or contempt.

**National Institute of Indigenous Affairs**

34. The National Institute of Indigenous Affairs (INDI) was established by Act No. 904/1981 as an autonomous, self-contained body with legal personality. Although relations with the executive branch of government must be conducted by the Ministry of Education and Culture, the Institute is free to establish direct links with the legislative and judicial branches and with central government agencies. It has the option of opening regional branches, but at present is legally registered in Asunción only.

35. The mission of the National Institute of Indigenous Affairs is to fulfil, safeguard and ensure strict respect for the rights of indigenous peoples, harmonizing its statutory mandate with the participation of indigenous communities, in coordination and cooperation with other institutions.

36. The Institute has the following functions:

- To develop and implement policies and programmes;
- To coordinate, oversee and evaluate public and private sector initiatives benefiting indigenous peoples;
- To provide scientific, technical, legal, administrative and financial assistance to indigenous communities, either directly or in conjunction with other institutions, and to manage aid provided by national and foreign organizations;
- To institute indigenous centres with organizations composed of or working on behalf of indigenous peoples;

- To conduct, promote and oversee research into indigenous affairs and disseminate information about indigenous communities approved by the Institute and by members of the indigenous community;
- To adhere to the principles, resolutions and recommendations of international organizations working on behalf of indigenous peoples, provided that these are consistent with the Institute's objectives as established in the present Act, and to encourage these organizations in turn to follow the Institute's objectives;
- To support actions and complaints brought before public and private sector bodies by indigenous peoples;
- To study and propose standards on civil registration, military service, education, criminal responsibility and identity documentation for indigenous peoples and to ensure compliance;
- To maintain relations with national and international indigenous organizations, providing advice and consultancy and ensuring compliance with corresponding agreements;
- To promote the technical and vocational training of indigenous people, particularly in the areas of farming, forestry and handicrafts, and for the organization and management of the communities; and
- To carry out any other activities related to the Institute's objectives.

37. The National Institute of Indigenous Affairs forms part of the Executive Branch Human Rights Network, a grouping of 21 government bodies established by Decree No. 2290 to improve mechanisms for promoting, protecting and enforcing human rights.

38. The main objective of the Ombudsman's Office[4] is to support the observance of human rights in Paraguay by effectively channelling complaints and promoting the defence of collective interests. The Office has a Department for Action against Discrimination, whose functions and responsibilities include, inter alia, monitoring compliance with all provisions of the Constitution, International Covenants, the Durban Declaration and Programme of Action and the Santiago de Chile Commitment relating to action to eliminate discrimination, receiving complaints, grievances and suggestions relating to discrimination, and taking action ex officio in cases of discrimination.

## E. Article 5

### Right to life

39. Within the structure of the National Institute of Indigenous Affairs, the Ethno-Development Directorate promotes micro-development projects in indigenous communities suited to the specific needs of each community and observing the right to free, prior and informed consultation.

40. The support centre for indigenous persons is also being established to offer support and assistance to indigenous peoples and to provide social assistance in the area of health.

### Paraguay Biodiversity Project in the National Institute of Indigenous Affairs

41. The project to improve the conservation of biodiversity and the sustainable management of land in the Atlantic Forest of East Paraguay, better known as the Paraguay

[4] A department established in 1992 and regulated in 1995 under Act No. 631 on the Ombudsman's Office.

Biodiversity Project, is a bi-national Itaipu initiative, within the context of its corporate social responsibility programme, implemented through the Sustainable Rural Development Project in conjunction with the Secretariat for the Environment and the Ministry of Agriculture and Livestock.

42. The objective of this project is to conserve biodiversity of global significance and to promote the sustainable use of productive land in the Alto Paraná Atlantic Forest and the associated ecosystems in Paraguay. It has been deployed in six departments of the country[5] and incorporates a cross-cutting indigenous strategy.

43. Under the Institutional Strengthening Plan, the project has set up the Socio-Environmental Department within the National Institute of Indigenous Affairs.

44. There are a total of 90 indigenous communities throughout the Alto Paraná Atlantic Forest, 53 of which cooperate with the indigenous strategy of the Paraguay Biodiversity Project.

45. The indigenous strategy seeks to facilitate and promote the inclusion of settled indigenous communities and peoples as beneficiaries under the project. All the activities aimed at implementing the project are therefore aligned with the strategy with a view to guaranteeing the process of free, prior and informed consultation and training the communities to deal with the requirements for becoming beneficiaries of the Project, in compliance with the safeguards of the World Bank regarding indigenous peoples.

**The "Sowing Opportunities" programme**

46. Paraguay is implementing a national poverty reduction programme entitled "Sowing Opportunities", which aims to increase the income of families living in extreme poverty and enhance their access to social services. The Programme aims to coordinate the main actions and social plans of public institutions so as to provide a harmonized response to the issues of access to food, health, education, potable water, safe and comfortable housing, work and new and better income-generating opportunities for the most vulnerable families.

47. The Programme includes an indigenous peoples' component, whereby coordinated social services are provided to designated priority areas inhabited by indigenous communities, pursuant to the principle of respect for the right of indigenous peoples to free, prior and informed consent conducted in good faith. It aims to "contribute to increasing income for indigenous communities in a culturally sensitive way by providing differential access to social services, technical assistance and productive support". It focuses on: (1) Strengthening an inter-agency mechanism for dialogue and cooperation at the national, regional and municipal levels; (2) Supporting the implementation of the Plan of Action on Food Security and the Income Generation Plan for indigenous communities in a culturally sensitive way; and (3) Following up and monitoring activities directed at indigenous persons through the creation of a dashboard listing the actions taken by the institutions concerned.

48. It coordinates its efforts with subnational governments, representatives of indigenous organizations for each district or department, and representatives of the private sector and civil society organizations wishing to contribute to the fulfilment of the rights of indigenous families.

**Tekoporã programme**

49. Since 2014, the Secretariat for Social Action has included indigenous communities in its monetary transfer with corresponding responsibilities programme — the Tekoporã

[5] Departments of Canindeyú, Alto Paraná, Caaguazú, Guairá and Itapúa.

programme — applying the mechanisms of prior consultation and consent. As of April 2015, some 5,293 indigenous families had been included in the Tekoporã programme, representing around 18 per cent of all indigenous dwellings. Priority is given to indigenous families living in the Chaco.[6]

50. The Tekoha programme of the Secretariat for Social Action provides support to the Ava Guarani people of the Jekaupoty community in Luque. The Secretariat has enabled this community to remain in their homes and is in the process of legalizing their position.

**Sustainable Rural Development Project**

51. The Ministry of Agriculture and Livestock through its Sustainable Rural Development Project and with the support of the National Institute of Indigenous Affairs has selected and provided technical assistance and support to 50 indigenous communities under its indigenous peoples' development and investment plans.[7] Its main objective is to improve the quality of life of small producers and indigenous communities in a sustainable way through support measures that help to strengthen community organization, self-management and access to markets and value chains.

52. Communities under the plans receive ongoing technical assistance, and both those that do and those that do not receive investment funds have access to legal, organizational, agricultural training and legal assistance to obtain titles for, regularize and defend their respective habitats and lands.

53. At the end of the first half of 2014, 56,154,348,158 guaraníes (US$ 13,829,180) was paid out to indigenous communities and small producers, reaching a total of 8,537 families out of a target of 9,410 producers and 50 indigenous communities located in the departments of San Pedro, Caaguazú, Caazapá, Guairá and Canindeyu.

**Tenonderã programme**

54. The Tenonderã programme is an outreach and economic inclusion programme which promotes sustainable self-generated incomes. It is implemented by the Secretariat for Social Action[8] and extends to indigenous families and communities. In January 2015, prior, free and informed consultations were held with the Nivacle people of the Mistolar indigenous community in Mariscal Estigarribia (Boquerón). The consultations were carried out in coordination with the National Institute of Indigenous Affairs and the provincial government of the Boquerón department. As a result, 39 families of that community received non-reimbursable transfers of 2,100,000 guaraníes per family in May 2015. The money is designed to strengthen their capacity to produce honey. The community used this contribution to acquire 78 complete bee hives with stands and 6 full bee-keeper kits (smokers, bee suits, veils, hats, plastic feeders, gloves, hive tools, uncapping knives, refractometers etc.) from APICSA, a private entity that supports entrepreneurship. In addition, 300,000 guaraníes was made available to each family for the construction of a community laboratory and warehouse for testing and storing honey. A bee-keeping committee was also established in the Mistolar community.

55. A related aim is to organize a visit to the Makxlawaya indigenous community of Pozo Colorado, Chaco, in order to encourage at least 50 families to start producing honey.

[6] In the Department of Alto Paraguay, the total indigenous population stands at 4,134 persons, of whom 4,055 have benefited from the Tekoporã programme, equating to a coverage rate of 98 per cent of indigeneous persons in the Department.

[7] As of 2014.

[8] Since 2015.

**PROPAIS II programme — Secretariat for Social Action**

56. The PROPAIS II programme is a social investment programme that finances projects designed and managed by communities and social groups living in poverty through loans from the Inter-American Development Bank. During 2014, it provided support to 1,553 families living in 14 indigenous communities.

**Right to equality**

**Access to land**

57. Out of 493 indigenous communities, 357 have their own land (72.4 per cent). Out of those, 343 hold the land titles (96.1 per cent). Between 2010 and 2013, land underwriting processes have been undertaken, resulting in the securing of 210,606 hectares worth of land titles for indigenous communities.

**Budget for land purchases**

| *Year* | *Budget* | *Allocated* | *% allocated* |
|---|---|---|---|
| 2011 | 114 000 000 000 | 80 246 789 134 | 70.4% |
| 2012 | 94 239 852 257 | 1 515 123 300 | 1.6% |
| 2013 | 94 239 852 257 | 67 285 499 702 | 71.4% |
| 2014 | 86 665 859 128 | 51 996 815 504 | 59.9% |
| 2015 | 86 305 859 128 | - | |
| **Total** | **475 451 422 770** | **201 044 227 640** | **51.7%** |

**The Totobiegosode Ayoreo people**

58. The Totobiegosode Ayoreo community is divided into two groups: those who live on their traditional territory as one of the last groups in the world to live in a state of voluntary isolation, and those who have returned to live on the land to which they lay claim in the communities of Arocojnadi and Chaidi.

59. The latter group have laid claim to their ancestral lands before the Paraguayan State (annex D) since 1993. Some of their demands have been met and a response to their claim is currently being prepared. Furthermore, the Secretariat for the Environment is conducting an inventory of environmental licences in the reclaimed areas. It is also undertaking a study into the measures taken, including conservation corridors, and a review of areas of deforestation in the territory.

**Persons of African descent**

60. In June 2014, an agreement was signed between the Secretariat for Social Action, the Afroparaguaya Kamba Cuá Association and the Paraguayan Network of Persons of African Descent, with a view to facilitating joint interventions among the parties aimed at improving the quality of life for populations of African descent in Paraguay.

61. The Secretariat for Social Action's PROPAIS II programme funded by an Inter-American Development Bank loan includes a neighbourhood improvement component, which was used in 2014 to support the Kamba Cuá community in Fernando de la Mora. Some 125 families benefited from the construction of a community centre, a linear park, footpaths, an entry gate to the community, improved access to the church, widening and paving of streets and tree planting in public areas. As part of the intangible components of the programme, training in the preservation of cultural identity was made available to the

population via project development and management workshops and training workshops that provided the materials and supplies required to make percussion instruments such as drums and typical clothing including dresses.

**Political rights and exercise of citizenship**

62. The National Institute of Indigenous Affairs together with the National Directorate of the Civil Registry and the National Police Identification Department has been conducting mass registrations of members of indigenous communities, while the National Institute of Indigenous Affairs' National Indigenous Registration and Documentation Department has been issuing ethnic identity cards. This work is carried out according to a predefined schedule aimed at covering all indigenous communities in the country. The 2012 census of indigenous peoples indicated that 77.1 per cent of the indigenous population had been registered in the civil registry and 64 per cent had an identity card.

**Right to participation and development**

63. Specific administrative, social and community actions taken by the Government include:

- Decree No. 8545/2006 establishing the national register of legal personality and leadership, indigenous property and indigenous organizations under the National Institute of Indigenous Affairs, with a view to upholding and respecting the rights to self-determination of indigenous peoples;[9]
- Draft decree establishing a protocol for a consultation and consent process with indigenous peoples in Paraguay, which offers another means of ensuring full respect for the will of indigenous peoples. The document was the result of the first and second workshops on consultation and free, prior and informed consent that were held with the country's indigenous organizations;
- National Institute of Indigenous Affairs Resolution No. 2039/10 outlining the need to seek the Institute's intervention for all consultation processes with indigenous communities and establishing on a case-by-case basis the steps that must be taken during each consultation in accordance with Act No. 904/81;
- Publication of a document entitled "Dialogues with Representatives of Indigenous Organizations", produced by the Office of the United Nations High Commissioner for Human Rights;
- Provision of advisory services by the National Institute of Indigenous Affairs to other institutions such as the Ministry of Public Works and Communications in connection with the sanitation and potable water programme for Chaco and medium-sized cities in the eastern region of Paraguay. The Institute is also advising members of the legislature on the drafting of a bill on hydrocarbons and assisting the Secretariat for Social Action in connection with the development of specific consultation procedures for certain national projects, such as the Tekoporã Programme;
- The Secretariat for Social Action has a protocol for supporting indigenous communities, which aims to include indigenous peoples in its programmes that have been approved by the National Institute of Indigenous Affairs and require prior consultation and consent;

[9] According to the 2012 census data, some 425, or 86.2 per cent, of the existing 493 indigenous communities have legal personality.

- The National Institute of Indigenous Affairs has provided opportunities to improve the visibility of indigenous organizations through:
    - The National Indigenous Craft Fair;
    - A meeting of indigenous leaders to discuss the subject of housing;
    - The establishment of the inter-agency round table for the protection of the biosphere reserve;
    - The presentation of the national report and workplan on food security and nutrition for indigenous peoples;
    - Training with an intercultural approach for better management of indigenous peoples by civil servants;
    - The first National Indigenous Women's Council;
    - The first and second workshop on free, prior and informed consent with the support of the National Institute of Indigenous Affairs and the United Nations-REDD Joint Programme and indigenous organizations;
    - The participation of indigenous persons working in the National Institute of Indigenous Affairs in international events;
    - A partnership to strengthen capacity-building in order to ensure the visibility and participation of indigenous communities in the Paraguay Biodiversity project in cooperation with the Itaipu Bionational;
    - The strengthening and support of the indigenous component of the Sustainable Rural Development Project conducted by the Ministry of Agriculture and Livestock;
    - An indigenous peoples' forum at the International Fund for Agricultural Development;
    - A workshop on climate change and the REDD-plus mechanism for indigenous communicators carried out under the United Nations-REDD-plus Joint Programme in coordination with the National Institute of Indigenous Affairs;
    - The first national indigenous production fair organized by the National Institute of Indigenous Affairs;
    - The establishment of an inter-agency commission on food and nutritional security, headed by the National Institute of Indigenous Affairs.

**Housing**

64. Data produced by the 2012 national census of indigenous peoples recorded a total of 28,926 indigenous dwellings, which represents a significant increase compared to the 17,312 dwellings recorded in the previous census. Regarding tenure, almost all indigenous persons, or 92.6 per cent, declared that they lived in their own homes.

65. A staff member from the National Institute of Indigenous Affairs has been appointed as the organization's focal point in the National Housing and Habitat Secretariat with the main aim of ensuring that all indigenous communities have housing. His or her tasks include, inter alia, facilitating the submission of documents, responding to housing requests, coordinating action with the Secretariat and advising the Secretariat and indigenous leaders.

66. The National Housing and Habitat Secretariat runs the Original Peoples programme, which is specifically designed to meet the needs of native towns in the Western region.[10] The programme also includes the National Social Housing Fund. The results achieved by this programme include:

- Original Peoples programme — Number of dwellings distributed or under construction in different departments of Paraguay's two regions: 347 (2011-2012);
- National Housing Fund — Number of subsidies awarded at level 4 under the Fund in order to construct dwellings for indigenous peoples: 602 (2014);
- National Housing Fund — Inaugurations of dwellings in the Department of Boquerón: 360 (2010).

**Right to health**

67. With regard to health services, 244 out of 711 indigenous communities, villages and neighbourhoods (34 per cent) had access to local health-care facilities according to the 2012 census. Some 537 out of 711 communities benefited from the services of a Family Health Unit (75.5 per cent) and 431 had received medicines from Family Health Unit staff.

68. The Indigenous Health Act has been adopted and seeks to establish a National Department for the Health of Indigenous Peoples, which reports to the Ministry of Public Health and Social Welfare and is integrated into the national health system. It aims to guarantee access to health-care services for the various indigenous peoples and recognition, respect and strengthening of their own health-care systems.

**Indigenous women**

69. In coordination with the Tekoha programme for indigenous peoples, training has been provided to officials based in the regional centres who are responsible for supporting indigenous women. The process has begun in the departments of Amambay and Filadelfia and is due to be expanded.

70. As part of public-private partnerships, employment training sessions have been organized to help women find work quickly: 45 indigenous women participated in workshops on manufacturing cleaning products with the Chemical company in Filadelfia and Loma Plata, and 20 indigenous women worked on the production of Christmas products with the Levapar company at the end of 2014. Work is also taking place as part of an agreement between the Ministry of Labour, Employment and Social Security and the National Training and Work Skills Development System to provide technical training to urban/rural women, indigenous peoples, heads of households and/or victims of gender-based violence and women victims of trafficking.

71. Some 46 indigenous women have been recorded as users of the domestic violence shelter in recent months according to the regional women's centres responsible for providing specialist support for women in situations of violence.

72. An Inter-Agency Committee against Violence has been established within the four regional women's centres in order to improve the coverage and effectiveness of public services through coordinated action with various State institutions to provide support, prevention and protection measures for women victims of gender-based violence. In the departments of Canindeyú and Boquerón, where the regional women's centres are located, indigenous women attend the committees.

[10] Region with the highest concentration of indigenous peoples, which previously had not received assistance with housing requests.

**Women's Labour Market Entry Project**

73. Project on Strengthening and Expanding the Production Capacities of the Chaidi Indigenous Community, 2013/2014.

74. The Chaidi indigenous community of Alto Paraguay is made up of 20 families (120 persons) and relies mainly on farming and scavenging for food on the mountains for survival. An inter-agency agreement aims to diversify the production of protein-based food through goat raising and intends to improve family incomes and guarantee food security by making use of the resources and manpower available and by strengthening NGO and community work. Bodies involved in implementing this project include: the Ministry of Women, the Food and Agriculture Organization of the United Nations (FAO), the Ministry of Agriculture and Livestock, the Chaidi community of the Ayoreo people and the departmental authorities.

**ALA Project**

75. Two committee groups of the Ache Guaraní people from the Chupapou settlement in the Villa Ygatim district of the Canindeyú department have benefited from the Ministry of Women's ALA Project to promote women's entry into the labour market. The Project specifically aims to contribute to the implementation of public policies encouraging the economic empowerment of women and promoting and supporting productive initiatives:

| | |
|---|---|
| Name of the Committee: Echegatu Kuarava | Name of the Committee: Kuña Joaju |
| Beneficiaries: 18 indigenous women | Beneficiaries: 10 indigenous women |
| Project: Bakery | Project: Poultry farming |
| Result: Income generation to support the family | Result: Income generation to support the family |

76. Access to numerous productive activities has been provided as part of the ALA and the Sustainable Rural Development Projects, such as dairy farming, extracting potable water from artesian wells, resource management, construction of dwellings, fish farming, family farming and the manufacturing of household items. Some 29 communities benefited in 2014.

77. On the initiative of the Chamber of Deputies' Standing Advisory Committee on Indigenous Peoples, an inter-agency committee for work with indigenous communities was established at the end of March 2015, incorporating 14 State institutions, including the Ministry of Women, and involving the participation of indigenous women.

**Indigenous population with disabilities**

78. According to the 2012 census of indigenous peoples, 11.3 per cent of the indigenous population has at least one type of disability (auditory, visual or motor) in varying degrees.

79. The National Secretariat for the Human Rights of Persons with Disabilities has two strategic aims: (a) To manage support programmes and services, and (b) To develop public policies with a rights-based approach for persons with disabilities. Comprehensive support is provided to persons with disabilities as part of both these objectives.

80. Under objective (a), the Secretariat provides comprehensive rehabilitation services, including, inter alia, physiotherapy, speech therapy and psychology, and supplies all types of technical aids, including wheelchairs, prosthetic devices and hearing aids. Groups of indigenous persons of all ages have benefited from these services thanks to the coordinated

work by departmental and municipal governments to identify and access eligible beneficiaries.

81. Under objective (b), the Secretariat is currently leading the drafting process of the Plan of Action for the Rights of Persons with Disabilities in conjunction with the National Council on the Rights of Persons with Disabilities and with the cooperation of the Technical Planning Secretariat for Economic and Social Development, the technical assistance of the Office of the United Nations High Commissioner for Human Rights and the support of the United States Agency for International Development (USAID).

82. Furthermore, joint activities have been organized with the National Institute of Indigenous Affairs in order to ensure cultural and institutional relevance and so as to complete the work started on the citizenship application process, such as the identification of individuals, provision of benefits and referrals. These coordination efforts have been formalized through the signing of an inter-agency cooperation agreement aimed at conducting specific research on the disability prevalence rates in indigenous communities in addition to the aforementioned activities.

## F. Article 6

83. According to data from the 2012 census, of the 493 indigenous communities, 425 (86.2 per cent) enjoy legal personality, an essential requirement for claiming other collective rights.

84. The Supreme Court of Justice — through its Human Rights Directorate and in line with objective 6 of its Strategic Plan, that is, to disseminate and monitor the effective exercise of human rights in policies, rulings, regulations and the actions of the Judiciary and to report to the relevant citizens and forums, and in line with Agreement No. 633/10 ratifying the Brasilia Regulations Regarding Access to Justice for Vulnerable People — pursues the general objective of developing institutional actions that promote and protect human rights within the State network, focusing mainly on the administration of justice.

85. It has therefore promoted various projects in cooperation with the Federation for the Self-determination of Indigenous Peoples, within the framework of the United Nations Declaration on the Rights of Indigenous Peoples. A manual on indigenous law and human rights in Paraguay was drawn up and published in November 2012, with the support of the United Nations Development Programme. Nine hundred copies were printed and distributed to judicial professionals in February 2013 in order to disseminate the manual's content and raise judicial professionals' awareness of matters concerning indigenous peoples, regulations and customs.

86. In 2013 the "Justice and Indigenous Peoples" project was developed with the aim of providing technical advice to judicial professionals regarding human rights doctrine and the corresponding study of the United Nations Declaration on the Rights of Indigenous Peoples, and their applicability to the administration of justice. The project's most noteworthy aspects include interviews with indigenous leaders from the National Organization of Independent indigenous peoples, which explored subjects relating to the deprivation of liberty of indigenous peoples and aimed to create stronger ties between indigenous leaders and the National System of Facilitators.

87. In April 2013 an international workshop on peoples in voluntary isolation was held to discuss their situation, during which the revival of an inter-agency network to protect indigenous peoples was proposed.

88. These activities have succeeded in raising awareness among legislators, jurists, judges and the administrative authorities of the workings of the current legal system

dedicated to protecting and promoting the rights of indigenous peoples, with emphasis on the United Nations Declaration on the Rights of Indigenous Peoples. Furthermore, the impact of Paraguayan legislation on indigenous peoples has been evaluated, prompting reflection and awareness-raising in relation to the role of law as regards this vulnerable sector.

89. Indigenous peoples have taken an active part through the participation of their representatives in the process of drawing up materials, in addition to providing relevant information on indigenous customs and all aspects of indigenous customary law during training days for judges and judicial officials.

90. As part of the technical advice given to judicial professionals regarding human rights doctrine and its applicability to the administration of justice, the Human Resources Office of the Judiciary Training Department and the Centre for Judicial Studies have undertaken a programme to recruit and train local instructors through a module entitled "Cross-cutting Training for a Judiciary offering guarantees and judicial protection". This marked the beginning of a process of identifying legal trainers aimed at providing instruction on all aspects of indigenous rights through practical and dynamic training, which does not merely convey knowledge and information, but also encourages their application to legal rulings. The subjects covered were the role of judges in the application of human rights, with emphasis on the United Nations Declaration on the Rights of Indigenous Peoples; the international responsibility of the State and the role of the national judiciary; and indigenous customary law and the administration of justice.

91. In 2014, the Public Defence Service recruited specialists in indigenous matters, including lawyers, experts in indigenous culture and anthropologists, to its staff of advisers. These provide opinions and guidance to public defenders in trials involving indigenous peoples, whether as defendants or parties. They also monitor prisons, verifying the detention conditions of persons belonging to indigenous communities by means of a form specifically designed for that purpose. These specialists are in continuous contact with indigenous leaders so as to create links and facilitate access to justice.

92. The Public Prosecution Service has an Office of Ethnic Rights, the principal aim of which is to provide specialized technical support to public prosecutors and, in particular, to ensure effective compliance with constitutional provisions concerning the special procedure for punishable offences relating to indigenous peoples. Moreover, a Special Unit for Human Rights Offences was also established,[11] with exclusive jurisdiction over human rights offences. The Service also has a Human Rights Directorate, which reports to the Cabinet for Access to Justice and provides advice and technical support in order to define human rights policies and strategies for implementation at the institutional level.

## G. Article 7

93. With regard to access to education, of the 711 indigenous communities, villages and neighbourhoods counted in the 2012 census, a total of 501, or 70.5 per cent, are equipped with a school.

94. The census revealed that the literacy rate for those aged 15 and older who had not completed the second grade of primary school had improved among the indigenous population over the previous ten years. At the national level, the illiteracy rate had been 51 per cent in 2002, but had fallen to 37.6 per cent by 2012. Illiteracy is highest in rural areas and among women (42.7 per cent).

[11] By Attorney-General's Office resolution No. 52/11 of 13 January 2011.

95. Another positive aspect identified by the census was the increase in the average number of years of education completed by the indigenous population aged 15 and older, to 3.3 years.

96. Regarding education levels, the first and second cycles of basic schooling are available in 361 communities, villages and neighbourhoods, with 96 having access to the third cycle and 45 to secondary education. Seventeen communities, villages and neighbourhoods did not report. At least 67 of every 100 indigenous children aged between 6 and 14 currently attend a formal education establishment, with practically no difference between boys and girls.

97. Since the 2014 academic year, the Medical Sciences Faculty of the National University of Asunción has granted four special places for indigenous students on two courses: Medicine and Surgery, and Surgical Instruments and Operating Theatres.

98. As part of the *Escuela Viva II* programme, conducted by the Ministry of Education and Culture, 28 sets of educational materials were created in the areas of communication (for the first cycle), natural environment and health. The materials, produced in Spanish and the indigenous language, were aimed at 15 indigenous peoples and distributed to 318 schools.

99. In 2014, 609 indigenous institutions across the country benefited from infrastructure improvement and food provision projects in coordination with municipalities and local governments.

100. The promulgation of the Languages Act No. 4251/10, which establishes regulations for the implementation of articles 77 and 140 of the Constitution, represents significant progress in the recognition of multilingualism in Paraguay. The Act created the Language Policy Secretariat, which in late 2013 launched activities targeting the languages of indigenous peoples, particularly those at greatest risk. Documentation and revival efforts are currently being undertaken in partnership with indigenous peoples whose language is threatened, including the Guaná people, whose language, which is spoken by just four older women, is being revived among the community. Similar efforts are being made in relation to the language of the Manjui-Lumnana people, with whom initial agreements have been established for documentation work.

101. As part of the promotion of indigenous languages, several activities have been carried out through the mass media so as to raise national and international awareness of the situation regarding indigenous languages. Similarly, the first meeting on linguistic policies for the indigenous peoples of Paraguay saw the participation of spiritual and religious leaders, teachers and representatives from organizations and indigenous institutions. The meeting aimed to analyse the situation of the languages spoken in the different indigenous communities and to share possible strategies for supporting them.

102. There are also plans to draw up a National Indigenous Languages Plan through a free and informed consultation process involving political and spiritual representatives from the 19 indigenous peoples.

103. The Paraguayan Indigenous Mass Media Network was created as an independent, self-sufficient, civil society organization acting at the national and international levels, as an outcome of the REDD-plus workshop for communicators, which was supported by the National Institute of Indigenous Affairs.

104. That Institute provides subsidized university places for 212 students, and there are currently 40 indigenous students studying at the National University of Asunción.

# III. Follow-up to the concluding observations of the Committee

## Recommendation 8 (Directorate-General for Statistics, Surveys and Censuses)

105. The third national population and housing census of indigenous peoples, carried out in 2012, was a large-scale project for which preparation began two years prior to the actual gathering of data. A multidisciplinary team was formed to carry out wide-ranging, participatory work with an approach based on rights and interculturalism, ensuring the participation of indigenous men and women from all peoples.

106. One of the main activities in the census process was the training of census takers and supervisors, who were elected by their own communities to gather data. To that end, 50 workshops took place in community spaces throughout the country, training 1,667 persons, 1,638 of whom were indigenous.

107. The operating strategy was participatory and interactive, with the active participation and presence of indigenous peoples throughout the different stages of the census process, in line with their cultural standards. The main criterion for data gathering was self-identification, followed by geographical location and language spoken as indicator of ethnic belonging. The census was taken via two questionnaires, one of which was general and the other community-specific. The first questionnaire obtained data on aspects such as housing, employment, education and migration, while the second gathered information relating to the community, including information on legal personality, land tenure and access to resources. In total, 28,000 general questionnaires and 772 community questionnaires were completed.

108. The National Institute of Indigenous Affairs also carries out individual censuses relating to, for example, supplies and the recognition of leadership, in response to requests from indigenous communities. Additionally, together with the Directorate-General of the Civil Registry and the Identification Department of the National Police, the Institute facilitates the ongoing mass registration of members of indigenous communities. This registration is carried out as necessary on a departmental basis.

## Recommendation 9

109. The bill on the elimination of all forms of discrimination was examined by the Chamber of Deputies on 13 November 2014 at the suggestion of the Chamber's Human Rights Committee and was rejected. [12] The bill is being reconsidered during this parliamentary period thanks to wide participation by the three branches of government, civil society and academia, among others, with a view to raising awareness in all sectors of the scope of the bill and the need for it. It should also be noted that, for the first time ever, all the various legislative committees to which the bill was referred worked together with the Human Rights Network in examining the text and drafting their recommendations concerning its contents.

## Recommendation 10

110. In 2011, the Public Defence Service became independent of the Supreme Court of Justice, strengthening of public defence services and the employment of technical teams,

[12] By 21 votes against, 17 in favour and 1 abstention, with 6 deputies absent.

including psychologists, social workers and advisory staff. The Service's independence represents great progress in terms of strengthening access to justice for vulnerable sectors.[13]

111. In 2014, advisory staff members specializing in indigenous matters, including experts on indigenous culture, anthropologists and lawyers, were recruited for the purpose of providing opinions and guidance to public defenders on cases involving indigenous persons. They also monitor prisons, verifying the detention conditions of persons belonging to indigenous communities by means of a form specifically designed for that purpose. These specialists are in continuous contact with indigenous leaders so as to create links and facilitate access to justice.

112. The Public Defence Service has held seminars on access to justice for the indigenous community, and in 2015 seminars entitled "Indigenous Legislation", aimed at public officials, court officers, indigenous communities and the general public, took place in Boquerón and Caazapá.

113. The Service's Legal Advice Unit maintains contact with indigenous leaders and communities in general, thereby creating a permanent link between public defenders and those communities so as to facilitate their access to justice.

## Recommendation 11

114. The Constitution recognizes that Paraguay is a multicultural State and acknowledges the indigenous peoples as inhabitants of the country prior even to the foundation of the State itself.

115. Therefore article 46, on the equality of persons, enshrines the principles of positive discrimination and equality in order to achieve equality for indigenous peoples and thereby safeguard their rights by ensuring respect for their culture, world view and customs, stating that "All the inhabitants of the Republic are equal in dignity and rights. No form of discrimination shall be permitted". Legislation is therefore applicable to all inhabitants of the Republic, without discrimination on grounds of, inter alia, race, sex, colour or religion.

## Recommendation 12

116. Measures to bolster the National Institute of Indigenous Affairs have been adopted to cover its urgent needs, including an increase in its budget.[14]

117. Among the relevant legislative measures is a bill seeking to elevate the status of the Institute, making it a ministry of indigenous peoples' affairs. Additionally, resolution No. 263/2014 created the Standing Advisory Committee on Indigenous Peoples in the Senate.

118. International cooperation has facilitated the development of large-scale activities aiming at giving effect to the rights of indigenous peoples. These include the discussions that took place in 2013 and 2014 with representatives from indigenous organizations, with technical assistance from the Human Rights Adviser in Paraguay and the support of the Indigenous Peoples and Minorities Section of the Office of the United Nations High Commissioner for Human Rights. The central themes addressed included participation, the right to consultation, land restitution and the strengthening of the governing body. Furthermore, under its standing invitation, Paraguay received a visit from the Special Rapporteur on the rights of indigenous peoples, Ms. Victoria Tauli-Corpuz, in November 2014.

[13] Including the indigenous sector.

[14] From 105,541,576,747 guaraníes in 2014 to 107,261,166,895 guaraníes in 2015.

## Recommendation 13

119. Together with the Directorate-General of the Civil Registry and the Identification Department of the National Police, the National Institute of Indigenous Affairs currently facilitates the ongoing mass registration of members of indigenous communities. This registration is carried out as necessary and on a departmental basis. Additionally, the Institute's Registration Office issues identification cards for indigenous persons. In 2014, cards were issued to 1,172 indigenous persons and documentation to 551 older adults. Identity cards were issued to a total of 9,684 persons in 2014.

120. The following results have been achieved in relation to indigenous communities who have benefited from rulings and agreements in their favour within the Inter-American human rights system:

- Total first identity cards issued: 82 (31 to members of the Xámok Kasek community, 6 to members of the Yakye Axa community, 27 to members of the Sawhoyamaxa community and 18 to members of the Kelyenmagategma community);
- Total identity card renewals: 71 (25 for members of the Xámok Kasek community, 7 for members of the Yakye Axa community, 26 for members of the Sawhoyamaxa community and 13 for members of the Kelyenmagategma community);
- Current proportion of all indigenous persons holding identity cards: 98 per cent.

121. The National Secretariat for Children and Adolescents addresses protection and promotion by providing direct care for children and adolescents in the Central, Caaguazú, Canindeyú, Caazapá, Boquerón, Guaira, Concepción, San Pedro, Itapúa, Amambay and Alto Paraná departments. Adolescents who are taken off the streets are transferred from shelters to the Mbarigui Training Centre for Indigenous Persons in Caaguazú to complete their education.

## Recommendation 14

122. The Ministry of Indigenous Peoples' Affairs, due to be created with the passing of the bill that is currently before the National Congress, will be an institution with functional and budgetary authority able to influence the State structure and thus introduce public policies that safeguard the rights of indigenous peoples. The Ministry would ensure greater well-being for indigenous communities and peoples in their natural environment. This would be achieved through the development of plans, programmes and projects for the management of indigenous affairs at the grass-roots level in a manner that would uphold their ancestral values, principles, practices and customs. It would also involve self-governance programmes and the optimization of the use of social expenditure budget allocations. Such measures would strengthen the agency and enable it to ensure effective prior, informed consultations with indigenous peoples.

123. As part of cooperation between the National Institute of Indigenous Affairs, the United Nations and REDD-plus, and in conjunction with the Federation for the Self-determination of Indigenous Peoples, promotion and support was provided for the first and second workshops on consultation and free, prior and informed consent that were held with the country's indigenous organizations.

124. The main outcome of those workshops was the proposal of a legal framework establishing a protocol for a process of consultation and consent with the indigenous peoples of Paraguay, which is in the process of being adopted by the executive by presidential decree.

125. Pending enactment of the Decree on the consultation and free consent protocol, the Institute is providing advisory services to a number of other institutions. In addition to furnishing such services to the Ministry of Public Works and Communications in connection with a sanitation and drinking water programme in the Chaco and medium-sized towns in the east of the country, it is also advising the members of the legislature on the drafting of a bill on hydrocarbons and assisting the Secretariat for Social Action in connection with the development of specific consultation procedures for certain national projects, such as the Tekoporã Programme.

126. The Institute is also working with the Secretariat for the Environment on consultation processes with indigenous peoples as part of efforts to update the National Biodiversity Strategy and draw up a plan of action to support the implementation of the Paraguayan 2011-2020 strategic plan on the Convention on Biological Diversity.

## Recommendation 15

127. The Public Prosecution Service adopted Attorney-General's resolution No. 13, "Instructions for Joint Action", of 25 November 2013, which sets out guidelines for intervention by the Ethnic Rights Directorate, Criminal Complaints Office, prosecutors and prosecution department officials in open cases involving indigenous persons. The Ethnic Rights Directorate intervened in 348 cases in 2013, and in 22 per cent of cases the application of customary law was suggested.

128. In 2015, the Directorate intervened in 55 and 251 cases in the western and eastern regions of the country respectively. This year, it has also issued 175 technical opinions in relation to cases involving indigenous persons, whether as victims or defendants, thus ensuring respect for their ancestral culture and their effective access to justice.

129. With regard to protecting cultural rights, a new Heritage Act is being drawn up, taking cultural territories into account and paying particular attention to the territories of indigenous peoples.

130. Significant action has been taken to address work carried out with indigenous communities, the institutional framework and applicable legislation. This includes a guide to best practice, which was disseminated through a series of workshops for public officials from various institutions and representatives of indigenous and pro-indigenous organizations across the country, with the support of the Governance and Land for Indigenous Peoples Project.

## Recommendation 16

131. As part of the follow-up to the conclusions and recommendations made by the Conference Committee on the Application of Standards at the June 2013 International Labour Conference, the Commission on the Protection of Fundamental Rights at Work and the Prevention of Forced Labour is working to establish and adopt an initial national action plan on the abolition of forced labour, which will last six months, and is developing a long-term national strategy.

132. The Ministry of Labour, Employment and Social Security was created in 2013 after detachment from the Ministry of Justice and Labour, thereby strengthening administrative authority and monitoring of the labour sector.

133. The Ministry has a regional directorate in the Chaco region, which, within the project run by Cooperazione Interanazionale (COOPI), a non-governmental organization, under the Chaco Central Regional Subcommission for the Protection of Fundamental

Labour Rights and the Prevention of Forced Labour, has achieved significant progress, such as the formalization of companies, mostly in the Central Chaco region; the enrolment of workers in the Social Security Institute; the establishment of labour courts in Filadelfia and Villa Hayes in the Chaco region; the printing and distribution to the public of materials on Paraguayan labour laws; the broadcasting of radio programmes by Radio Pa'i Puku in the Chaco region in 2012 and 2013 as part of the project entitled "Promotion of labour rights among indigenous peoples in the Chaco region"; and the coordination of work with municipalities in the districts of Teniente Primero Manuel Irala Fernández and Loma Plata to prevent indigenous people from being exploited, discriminated against and subjected to forced labour.

134. Within the framework of the Access to Justice Programme of the Supreme Court of Justice's Human Rights Directorate, the judiciary undertakes activities to raise awareness among workers and employees of the need to eradicate forced labour in indigenous communities in the Chaco region.

## Recommendation 17

135. After 23 years of petitioning the State, the Sawhoyamaxa indigenous community, part of the Exnet people, recovered their ancestral lands, amounting to 14,403 hectares, under the terms of Act No. 5194/2014.

136. The deed for the purchase of alternative land by the Yakya Axa community is currently being drawn up. Procedures have started to grant a right of way in view of the lack of a useable all-weather access route to the lands in question.

137. The State is engaged in negotiations with the owners of the farms concerned by the claim of the Xákmok Kásek community with a view to concluding the purchase of government real estate covering 7,701 hectares, representing the most significant portion of the territory claimed; the total area whose return is requested is 12,200 hectares. Additionally, the community has been granted the titles to 1,500 hectares of land as required by one of the ruling's key operative paragraphs.

138. The Inter-agency Commission on the Enforcement of International Judgements was restructured by Presidential Decree No. 10,449 of 28 December 2012 and is now chaired by the Vice-President of the Republic, while the Ministry of Justice and Labour is responsible for general coordination. Furthermore, Presidential Decree No. 10,744 of 5 May 2013 extended the Commission's powers to include follow-up of the recommendations made by the different treaty bodies, mechanisms and rapporteurs of the United Nations system.

## Recommendation 18

139. Under the provisions of the National Act on Culture No. 3051/06, the Afro-descendant community has a permanent representative on the National Council for Culture, who is elected by organizations of persons of African descent. The Council's specific function is to undertake consultations, and it has been continuously engaged in such activities since October 2013.

140. In June 2014 an agreement was signed between the Secretariat for Social Action, the Kamba Cuá Afro-Paraguayan Association and the Paraguayan Afro-Descendant Network with the aim of supporting joint interventions to improve the quality of life of Afro-descendant groups in Paraguay.

141. Statistics concerning restrictions placed on access to public places and services on grounds of race or ethnic origin are not recorded.

142. Persons of African descent are also eligible for the pension for indigent older persons under Act No. 3728/2009.

## Recommendation 19

143. The Language Policy Secretariat is a fully functioning law enforcement body, with an approved budget of 4,760,643,916 guaraníes. The Guarani Language Academy has also been created and integrated into the Secretariat and works to disseminate the National Language Use Plan, alongside an inter-agency network for planning the mainstreaming of Guarani in public institutions.

144. The network has made important progress, such as in the use of Guarani as a working language during plenary sessions of the Parliament of the Southern Common Market (MERCOSUR); the implementation of the "Rohayhu che ñe'e: a week in Guarani" project, which aims to mainstream the use of Guarani in State bodies and in society; the recording and dissemination of indigenous languages that are in danger of extinction (currently working with the Guaná and Manjúi languages); the promotion of the use of Guarani through new information and communication technologies; and the promotion and dissemination of information on plurilingualism and pluriculturalism through awareness-raising campaigns in the media, among other measures.

145. The National Secretariat for Culture, in coordination with the Language Policy Secretariat, has developed the "Safeguarding Guaná Culture" programme. Four documentaries in indigenous languages have been declared to be of national cultural interest. Twenty bilingual workshops in Spanish and Guarani took place in 2014, five literary gatherings entitled "Oikove Ñe'eyvoty" were held in 25 communities in the city of Asunción, and there were 12 readings of poems in Spanish and Guarani.

146. In 2013, the Supreme Court of Justice adopted Agreement No. 838/13, which deals with the implementation of the Languages Act in the judiciary. Article 3 of the Agreement provides for the mandatory use of the two official languages, Spanish and Guarani, in the judiciary in all districts in the Republic. The Directorate of Judicial Linguistic Policy was created with the aim of organizing and assisting the development of linguistic policy for the judiciary and civil society. This directorate is responsible for establishing the training and education in oral and written skills in both official languages to be provided to all persons involved in the administration of justice and the passing of resolutions.

147. The equal use of the two official languages is being introduced gradually and progressively. Compliance with the obligation to use Guarani depends on the establishment of an official alphabet and grammatical rules by the Guarani Language Academy, as provided for in article 51 of the Languages Act.

148. With regard to the legislature, the Chamber of Deputies issued Declaration No. 138/11, which declared the dissemination of the Languages Act to be in the national interest. This ensures its application by official State bodies throughout the country and the promotion of Guarani as an official language of the State, thereby achieving the equal use of the two languages in society and preventing discrimination on grounds of language.

149. The Directorate-General for Indigenous Schooling was created through the promulgation of Act No. 3231 in 2007 in order to safeguard the collective rights of indigenous peoples, as set out in the Constitution, thus guaranteeing education for indigenous peoples in line with their rights, customs and traditions in order to strengthen their culture and enable them to participate actively in society.

150. Educational materials for pupils belonging to 15 indigenous peoples were created in Spanish and indigenous languages. The materials for the first school cycle dealt with the

subject of communication, while those for the second cycle addressed the environment and health. They were implemented in 318 schools.

151. In terms of teacher training, (a) 37 persons graduated as teachers of multilingual intercultural education in schools serving the Pai Tavytera people; (b) 500 teachers in indigenous schools were trained as socializing agents as part of the *Escuela Viva II* programme; (c) 400 teachers will be trained in basic intercultural education, and 1,300 will receive specialist training in seven areas of intercultural education through the project run by the Ministry of Education and Culture and the National Public Investment and Development Fund.

152. As part of the process to develop the curriculum for indigenous peoples, one seminar and three workshops were held for representatives from 15 indigenous peoples, at which the proposal was presented and areas of work were defined.

153. Indigenous assemblies have been established, and representatives to the Area Council on Indigenous Schooling have been appointed by seven indigenous peoples, while the remaining peoples are in the process of electing representatives.

## Recommendation 20

154. The budget granted to the Ombudsman's Office amounts to 11,053,134,153 guaraníes. The Office therefore has sufficient resources to promote human rights programmes and actions that ensure the fulfilment of obligations stemming from the Constitution and international treaties.

155. In March 2015, the legislature, through the Senate, called for applicants for a shortlist of candidates for the posts of Ombudsman and Deputy Ombudsman. There were 80 applicants, who were assessed at public sittings.

## Recommendation 21

156. The first proposal for the National Human Rights Plan was formulated in December 2011. The initiative was undertaken by representatives of the Human Rights Network of the Executive, the Supreme Court, the Public Prosecution Service, the legislature, the Ombudsman's Office, the Paraguayan Human Rights Coordinating Committee, the Network against All Forms of Discrimination, the Paraguayan Network of Afro-descendants, the National University of Asunción and the Paraguayan Association of Private Universities. The initiative was coordinated by the Ministry of Justice with the technical cooperation of the Office of the United Nations High Commissioner for Human Rights.

157. Following the submission of the first proposal for the Plan, changes were introduced and were approved by Presidential Decree No. 10,747 of 6 March 2013, "on adopting public policies in the area of human rights and implementing the National Plan". The Decree was partially amended by Presidential Decree No. 11,234 of 28 June 2013.

158. Strategic objective I of the Plan, on redressing structural inequalities to promote the enjoyment of human rights, addresses various aspects of equality and non-discrimination, and defines priority strategies to deal with the issue adequately.

159. The Public Service Secretariat, within the framework of the Plan on Inequality and Non-Discrimination in the Civil Service and as part of the implementation of policies to eliminate discrimination in the civil service, has provided guidance to State bodies and agencies on producing non-discriminatory job descriptions. It has also given training on the

topic of non-discriminatory treatment to 847 civil servants in Guarani and on the topic of respect for indigenous culture to a further 428 civil servants. A concept paper on training courses and on Act No. 904/81 — also known as the Statute of Indigenous Communities — was drafted, published and circulated.

## Recommendation 22

160. The Republic of Paraguay signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 6 October 2009. The institutions that make up the Human Rights Network of the Executive are currently conducting an analysis with a view to submitting the instrument of ratification to the National Congress. Paraguay is a party to the Convention on the Prevention and Punishment of the Crime of Genocide.[15]

## Recommendation 23

161. The National Culture Plan adopted by the National Secretariat for Culture in December 2014 treats inclusion as an essential factor of public policy in its strategic and cross-cutting components, in accordance with the National Plan for Opportunities, and cultural diversity as a key element of sustainable diversity.

162. The cultural heritage bill takes a rights-based approach to key issues enshrined in the Constitution and in international human rights instruments. This will make it possible to adopt the necessary measures to protect, safeguard, recover, restore and record the cultural heritage of Paraguay as a whole, and to promote, publicize, study, investigate and expand that heritage.

163. Afro-descendants and representatives of the Paraguayan Human Rights Coordinating Committee participate actively in the National Cultural Council, on which lesbian, gay, bisexual, transgender, intersex and queer organizations have been represented since 2015. Prior consultations are being held as part of the process of incorporating representatives of indigenous peoples.

164. More than 20 urban, peri-urban and rural communities have benefited from additional measures to promote and support the marketing of craft products.

165. Moreover, the primary objective of the Human Rights Directorate of the Supreme Court is to guarantee access to justice for all, with a particular focus on vulnerable persons, by developing the fundamental human rights principles established in the main international and regional human rights treaties.

166. The aim of the round-table discussions with the indigenous leaders of the National Organization of Independent Aborigines was to address in greater detail the deprivation of liberty of indigenous persons and efforts to enhance the accessibility of the National System of Facilitators.

167. These activities enabled legislators, jurists, magistrates and the administrative authorities to learn about the functioning of the existing legal system in the protection and promotion of the rights of indigenous peoples, with particular emphasis on the United Nations Declaration on the Rights of Indigenous Peoples. The impact of national legislation on indigenous peoples was assessed, which encouraged reflection on, and raised awareness of, the role of law with regard to this vulnerable group, thereby expanding knowledge of the current legislation.

[15] By virtue of Act No. 1,748 of 14 August 2001.

168. In 2013, work was carried out to create a legal digest on indigenous peoples in Paraguay between 1811 and 2003, and a publication was produced in collaboration with the International Work Group for Indigenous Affairs and the NGO "Tierraviva a los pueblos indígenas del Chaco". The publication brings together in one volume all existing provisions on the rights of indigenous peoples, basically useful to members of the judiciary and for the drafting of future regulations.

169. In addition, workshops were organized on the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) — which the Supreme Court declared as being of institutional interest — for magistrates, civil servants and court officials in the judicial districts with the largest indigenous populations, namely Central, Alto Paraná and the Chaco. The purpose of the workshops was to bring justice officials up to date with international human rights instruments for the protection of indigenous peoples, in order to ensure the effective implementation of the instruments in judicial decisions.

170. Efforts are constantly made by the judiciary to monitor conformity with treaties. An example is the unanimous rejection of the unconstitutionality claim filed by companies under the ownership of Heribert Roedel against Act No. 5,194/14, pursuant to which 14,404 hectares of land had been expropriated and given to the Sawhoyamaxa community in accordance with a ruling by the Inter-American Court of Human Rights, whose decision set an important precedent for resolving cases in which there is a conflict between communal property and private property.

## Recommendation 24

171. In 2011, concurrently with festivities to mark the 200th anniversary of independence, various activities were carried out with associations of Afro-descendants: support was provided for the Kamba Kua Festival, which was held in the district of Emboscada on 2 and 3 February 2011; technical assistance was offered to help improve the Kamba Kua community cultural centre; a representative of associations of Afro-descendants was appointed to the National Cultural Council; and artistic groups of Afro-descendants played an active role in planning festivities to mark the 200th anniversary.

## Recommendation 25

172. The Ministry of Foreign Affairs, through Executive Message No. 237 of 23 March 2015, submitted for ratification by the National Congress the "amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination", which was adopted in New York on 15 January 1992.

## Recommendation 26

173. The possibility of making the optional declaration under article 14 of the Convention is being considered. That does not prevent individuals or groups who claim to be victims of human rights violations from submitting complaints or from having recourse to international bodies or to mechanisms, such as those in place within the Inter-American human rights system, under which Paraguay is endeavouring to fulfil its obligations. It should be noted that the experience of Paraguay in reaching amicable settlements in that regard has been highlighted as a good practice in the region.

## Recommendation 27

174. Follow-up to the Committee's concluding observations and to those of other human rights bodies is provided through the Recommendations Monitoring System, [16] a computerized tool that systematizes and monitors the follow-up given to the recommendations received by the country from the various international human rights bodies and mechanisms. The tool makes it possible to view the measures being taken and the challenges faced in the fulfilment of international obligations.

175. The report and the Committee's concluding observations are currently being translated into Guarani thanks to a joint effort by the Language Policy Secretariat, the Ministry of Justice and the Ministry of Foreign Affairs.

## Recommendation 28

176. The information requested with regard to the implementation of paragraphs 9, 16 and 17 of the concluding observations, which could not be provided within the established time frame, has been included in this report.

## Recommendation 29

177. The Government has included relevant information on the issues raised in recommendations 8, 14, 15, 18 and 19 in this document.

## Recommendation 30

178. In compliance with the recommendation made to it and in line with the harmonized reporting guidelines,[17] Paraguay presents its combined fourth to sixth periodic reports.

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[16] Accessible on the following websites: www.mre.gov.py; www.hchr.org.py.

[17] HRI/GEN.2/Rev.6, para. 19.